IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.870 OF 2005

IN

SUIT NO.73 OF 2000

Shree Swami Hathiramaji Mutt ...Plaintiff

Versus

Kamlesh Kumar & Anr. ...Defendants

.....

Mr.B.H.P.Sharma for Plaintiff.

Mr.P.Ravindrakumar i/b S.G.Walam for Defendnats.

.....

CORAM: A.M.KHANWILKAR, J.

AUGUST 9, 2005.

P.C.

1. Heard Counsel for the parties. Perused the proceedings.

2. This Application is for limited purpose of permitting the Plaintiff to delete item No.17 being the residential house situated at 3-O, GM Street, Tirupati, as the subject matter of the present

Suit. This prayer is opposed by the Counsel for Defendants on the argument that the Plaintiff has taken forcible possession of the said property and therefore if the proposed amendment is granted, the Defendants would be immensely prejudiced.

3. I find no substance in this submission. If the Plaintiff has resorted to taking forcible possession as is alleged, it is open for the Defendants to take recourse to the remedy as may be permissible by law, assuming that the allegation is correct. In my opinion, that cannot be ground for not permitting the Plaintiff to delete one of the property from the scope of the present Suit. No prejudice will be caused, if such course is acceded to.

4. Accordingly, this Chamber Summons is allowed in terms of prayer clause (a) with no order as to cost. Amendment to be carried out within three weeks from today.

A.M.KHANWILKAR, J.